

DEC 14 2005

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ALEJANDRO SERRANO MONCADA,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-75418

Agency No. A96-163-253

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted December 5, 2005^{**}

Before: GOODWIN, W. FLETCHER, and FISHER, Circuit Judges.

Alejandro Serrano Moncada petitions for review of the Board of
Immigration Appeals' ("BIA") September 27, 2004, order affirming an

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

immigration judge's denial of his application for cancellation of removal. We dismiss the petition in part and deny it in part.

We lack jurisdiction to consider the bulk of Serrano Moncada's contentions because they pertain solely to the BIA's denial of his subsequently-filed motion to reopen, for which he has not filed a separate petition for review. 8 U.S.C. § 1252(b)(1); *Martinez-Serrano v. INS*, 94 F.3d 1256, 1258 (9th Cir. 1996). Serrano Moncada's petition is therefore dismissed to the extent it seeks review of the denial of the motion to reopen.

Serrano Moncada's sole remaining contention is that 8 U.S.C. § 1182(a)(9)(B)(i), which will render him inadmissible, violates equal protection because it renders inadmissible a disproportionate number of Hispanic aliens, who, Serrano Moncada claims, illegally enter and remain in the United States more than aliens of any other race. We have jurisdiction to address that claim pursuant to 8 U.S.C. § 1252(a)(2)(D). However, Serrano Moncada's claim fails because he has not proven that § 1182(a)(9)(B)(i) is "wholly irrational." *See Tovar-Landin v. Ashcroft*, 361 F.3d 1164, 1167 (9th Cir. 2004).

PETITION DISMISSED IN PART, DENIED IN PART.